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# Transcript

Newsletter of the Orange County Public Law Library

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## Voting With Electrons

*by Nata Nguyen, Library Aide*

The Presidential Election in 2000 highlighted the problems of voting equipment and procedures. An Internet voting system is one of the more controversial aspects of the debate. One view argues that using an Internet system can increase the number of voters and still provide security to keep the system from being hacked and voters' private information accessed. Another view argues that Internet voting cannot solve security and participation concerns [1], but other electronic voting systems, which use touch-screen, are faster and more accurate than mechanical lever and punch card systems [2]. I believe that Internet voting systems cannot solve the security and accessibility concerns, while the electronic (stand-alone-computer) voting system such as touch-screen can.

Using an Internet voting mechanism leads to potential security risks for voters and government documents, and also concerns of accessibility and ability of voters. Major security concerns are the risks of virus attacks and privacy of voters. A Trojan Horse virus could be lodged on a computer and manipulate a voter's ballot without detection [1]. The system might be hacked in and broken down in as short a period of time as an hour [2].


Also, there could be misuses of private information distributed as the result of voting via the Internet. Who can guarantee that private information is kept confidential? People might argue that Internet voting is no different from online shopping where voters/consumers will have to provide personal information to use the service. However, it is not true that their private information will be protected. It is reported, "only about 20 percent of major companies on the Internet had adequate standards for protecting the privacy of Internet users" [3]. Therefore, voters might refuse to vote if they have to risk their private information.

Another concern is the voters' accessibility to the Internet. It is reported that whites are more likely to have

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## Orange County Public Law Library Changes Hours

Effective January 5, 2004, the hours of OCPLL changed. The new hours are Monday-Thursday 8:00 a.m. to 8:00 p.m., Friday 8:00 a.m. to 6:00 p.m., and Saturday 9:00 a.m. to 6:00 p.m.

The Library's hours beyond the standard daytime workweek allow its resources to be more available to anyone needing access to legal information. The Library's website, [www.oc.ca.gov/lawlib](http://www.oc.ca.gov/lawlib), also guides patrons to legal information resources. Previously the Library was open until 10:00 p.m. Monday-Thursday, but very few people used the library in the later evening hours. The cost savings from the earlier closing time will help offset the ever-increasing acquisitions costs of print and electronic legal materials. 

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# 4<sup>th</sup> Amendment takes it on the Chinny Chin Chin

by Bret Christensen

What do the 4<sup>th</sup> Amendment and Dodo birds have in common? One is extinct and the other is soon to be so. Where once all United States citizens enjoyed the freedoms espoused under the 4<sup>th</sup> Amendment, after December 2, 2003 all Americans are on notice that law enforcement officials may now burst in a mere 15 seconds after announcing themselves at the door under 18 U.S.C.A. Section 3109 (GEN3 KF62 .W45).

On July 15, 1998, FBI agents, armed with such a search warrant, stormed the apartment of Lashawn Lowell Banks in Las Vegas, Nevada looking for drug paraphernalia. The warrant was based on information Mr. Banks was selling cocaine at his apartment. Testimony in court noted that police had knocked and announced themselves and, 15-20 seconds later, forced their way into the apartment using a battering ram. The Ninth Circuit Court declared that 15-20 seconds is not always enough time to answer a door when someone knocks on it. You see, the reason Mr. Banks did not just spring to the door when police knocked on his door was because he was in the shower and did not hear the police knock and announce their presence. This was evident by the fact that when the police barged into Mr. Banks' home they found him standing naked and dripping wet – as if he had just stepped out of a shower. Failing to wait a reasonable amount of time before forcibly entering the apartment, the Court of Appeal granted Mr. Banks' motion to suppress the evidence. (*U.S. v. Banks* (9<sup>th</sup> Cir. Nev., 2002) 282 F.3d 699; GEN3 KFI05 .F43).

On December 2, 2003, however, the Supreme Court of the United States declared 15 seconds was more than enough time for Mr. Banks, or anyone else, to open his door following the announcement by police. (*U.S. v. Banks* 2003 DJDAR 12973; GEN3 K12 .O77). Specifically, the Court observed that: "The case turned on the exigency revealed by the circumstances known to the officers after they knocked and announced." An exigent circumstance is one that demands unusual or immediate action (*Black's Law Dictionary*, 7<sup>th</sup> Ed.; DIC KFI56 .B53 1999). The Court found that where police suspect a crime is in progress or evidence is being destroyed, police can break down any door, do damage to any building, create havoc to whomever gets in their way to arrest a wrongdoer. Because the FBI had no way of knowing Mr. Banks was in the shower the only

thing they could think of why he did not open the door was because he was destroying evidence. It is because of this supposed exigency, the Court ruled, that the FBI was justified in waiting only 15 seconds before breaking down the door.

While the *Banks* ruling makes for some interesting reading, it also stirs up ominous Orwellian imagery in stark contrast to the provisions in the 4<sup>th</sup> Amendment which states: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." Title 18 of the United States Code Section 3109 reads: "The officer may break open any...door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance...in the execution of the warrant." Careful readings of both of these passages indicate a distinct conflict with the *Banks* decision. First, all persons (including drug dealers) have the right to be secure in their houses and second, an officer may break open any door if he is *refused* admittance.

In the case at hand, Mr. Banks was in the shower when the FBI knocked on his door. Section 3109 is clear when it states that police may only enter if denied admission. However, there was no indication here that the door was barricaded or that the FBI was purposefully denied admission. There was also no evidence showing that the defendant was engaging in a criminal act. Shampoo in his hair, water in his face and he's going to hear a knock on the front door? Not likely. Heck, even the big, bad wolf gave the three little pigs more than 15 seconds before he blew their houses down.

Disturbing as all of this is, the issue is not so much a debate on what constitutes a reasonable length of time police should wait before breaking down a door as it is a look at the current state of the Union. Following the tragedy of September 11<sup>th</sup>, Congress voted on a piece of legislation now known as the Patriot Act (USA Patriot Act of 2001, H.R. 3162, 107<sup>th</sup> Cong., 2001; GEN3 KF9430 .A316U83 2002 ). What it did was grant enforcement agencies certain "powers" which had been, up to that point, virtually forbidden under the Constitution. Proponents of the law say it was designed to give the government better law enforcement tools to prevent and fight terrorism. Many other people say the

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# WHY EXCLUDE EVIDENCE?

by John Patrick Quigley

## U.S. v. BANKS (2003)

On December 2, 2003, a Ninth Circuit appellate decision that excluded evidence in a criminal trial (282 F.3d 699, GEN3 KF105.F43) was unanimously reversed by the U.S. Supreme Court. See U.S. v. Banks, 157 L.Ed.2d 343, 124 S.Ct. 521, 2003 DAR 12973, and on the web at [www.supremecourtus.gov/opinions/03pdf/02-473.pdf](http://www.supremecourtus.gov/opinions/03pdf/02-473.pdf). (Not too surprising, since over 80% of reviewed decisions from the liberal Ninth Circuit are reversed or vacated. But lest we think that the Court has become 100% conservative, on January 26, 2004, it unanimously reversed an Eighth Circuit opinion and excluded evidence deemed in violation of the Sixth Amendment's right to counsel. See Fellers v. U.S., 2004 DAR 811, [www.supremecourtus.gov/opinions/03pdf/02-6320.pdf](http://www.supremecourtus.gov/opinions/03pdf/02-6320.pdf).)

In the Banks case, the FBI had obtained a valid warrant to search the Las Vegas home of a suspected drug dealer, and broke in 15 or 20 seconds after announcing their presence. The court's decision was not based on a homeowner's reasonable expectation of having over 15 seconds to answer the door, but on the police officer's reasonable expectation, under "exigent circumstances", that evidence might be destroyed (e.g. flushed down the toilet) if entry is delayed more than 15 seconds. The opinion suggested that there might be a different result, if the police had been searching for a stolen piano.

## HISTORY OF THE FOURTH AMENDMENT

The Fourth Amendment of the U.S. Constitution states that: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Amendment doesn't mention the exclusion of evidence. It was first used for that purpose in federal cases in Boyd v. U.S., 116 U.S. 616 (1886), which concerned "papers". It was applied to federal home entries in Weeks v. United States, 232 U.S. 383 (1914), but specifically not applied to states in Wolf v. Colorado, 338 U.S. 25 (1949), overruled 12 years later in Mapp v. Ohio, 367 U.S. 643 (1961), all at

GEN3 KF101.A2U5. The landmark Mapp case has records and briefs filed at MICRO KF8733.5.U5. Also see *The Fourth Amendment Handbook: A Chronological Survey of Supreme Court Decisions*, GEN3 KF9630.Z90G68 2003,

## CRITICISM OF THE EXCLUSIONARY RULE

Although the exclusion of evidence obtained by "unreasonable searches and seizures" seems logical on first impression, on close analysis it's based on three odd ideas: (1) that two wrongs make a right – crimes can be forgiven if police also break the law in collecting evidence of the crime, (2) that the people have more to fear from police than from criminals, and (3) that punishing the people by turning criminals loose will somehow punish errant police.

An early critique of the exclusionary rule is *Exclusionary Injustice: The Problem of Illegally Obtained Evidence*, GEN3 KF9662.S34 (1977), by a political scientist. The author begins on page 2 by referring to the murder of a teenage girl, whose body was discovered under a search warrant, but excluded as evidence because of a technical deficiency in the warrant. After discussing public policy issues, he concludes with proposals and discussion of alternatives to the exclusionary rule.

The rationale for the rule is a hope that illegal activity by police will be discouraged if evidence obtained by means of such activity is excluded. Such wishful thinking is disputed in *Justice Overruled: Unmasking the Criminal Justice System*, GEN3 KF9223.K34 1997. In chapters 3 & 4, the author, a former prosecutor, defense attorney and judge, claims that the exclusionary rule does nothing to deter unlawful searches, but only breeds contempt in the police for judge-made law and leads to their "testi-lying" to achieve what they perceive to be justice. In high-stakes cases, such as murder, he further contends that judges knowingly overlook this practice.

It seems more likely that illegal searches would be discouraged by civil suits against the offending agency. If police illegally wreck a person's home to find marijuana, why not allow the evidence in a criminal prosecution, but require the government to pay for the actual damages caused by their actions, including punitive damages if their actions were willful? This would probably result in more law-

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## TRUSTEE JUDGE ROBERT J. MOSS

*by Margaret Rogers, Cataloging Technician*

Judge Robert J. Moss was appointed to the Orange County Public Law Library's Board of Trustees in April 2003. He was appointed to the Orange County Superior Court bench by Governor Gray Davis April 19, 2002 and was sworn in May 31, 2002. Judge Moss's current assignment at the Central Justice Center in Santa Ana is limited civil cases; these are the cases that the municipal courts used to try for amounts up to \$25,000. He is responsible for 2200 cases.

Judge Moss was born in Elkhart, Indiana and then moved to Chicago. His family moved to Glendale where he attended Glendale High School. Judge Moss attended UCI and was in the first 4-year class to graduate in 1968. He attended Loyola University School of Law, Los Angeles where he was on the law review; he was also a member of the St. Thomas More Law Honor Society which is a by invitation only honor society for the top 15% of the class academically. He graduated in 1973 and was admitted to the California bar that same year.

Judge Moss specialized in civil litigation which includes business torts, construction defects, governmental entities, insurance bad faith, personal injury, and professional malpractice. He was an associate with the firm of Parker, Stanbury, McGee, Babcock & Combs from 1973-1977; a partner at Parker, Stanbury, McGee, Babcock & Combs from 1978-1986; and a founding partner in the firm Howard, Moss, Loveder, Strickroth and Parker from 1986 until his appointment to the bench in 2002.

Judge Moss was invited to join the American Board of Trial Advocates where he served as a member of the national board of directors and the president of the Orange County Chapter. He has two beautiful crystal awards sitting on his desk from ABOTA. Judge Moss is a former member of the Orange County Bar Association, the Association of Southern California Defense Counsel, the Association of Business Trial Lawyers and the Association of Defense Trial Lawyers. Currently he is a member of the Orange County Superior Court Technology Committee, the Orange County Superior Court Employee Appreciation Committee, and the faculty of the Center for Judicial Education and Research where he teaches computer classes.

Judge Moss is an avid sailor and a 2001 En-

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## TRUSTEE DENNIS O'NEIL

*Interviewed by Margaret Rogers, Cataloging Technician*

Meet Dennis O'Neil, one of the newest members to be appointed to the Orange County Public Library Board of Trustees. Mr. O'Neil was born in Oakland, California and moved with his family to Glendale in Southern California where he attended Junior High School and High School. He is a graduate of the University of Southern California and received his law degree from Hastings College of the Law in 1966. It was during his last year of law school that he met and married his wife, Thais.

After passing the bar examination, Mr. O'Neil and his wife Thais moved to Southern California where he joined the office of the Los Angeles City Attorney. He received training in the criminal and civil divisions of the L.A. City Attorney's office in handling numerous jury and court cases. After three years, Mr. O'Neil left Los Angeles, and joined the legal staff at the City of Newport Beach as the Assistant City Attorney. This was a period of time in the early 1970's when the City of Newport Beach was transitioning from a small beach community to a diversified and dynamic municipality. The City of Newport Beach was involved in off-shore oil drilling, the protection of tidelands, the expansion of Santa Ana Airport (now JWA), the elimination of the Pacific Coast Freeway through the City, and the growth of a large business and commercial center at Fashion Island/Newport Center being developed by the Irvine Company. Mr. O'Neil served as the Assistant City Attorney in Newport Beach from 1969 to 1971, at which time he was appointed by the Newport Beach City Council as the City Attorney. Mr. O'Neil was the youngest full-time City Attorney to serve in that capacity of a major City in California.

Mr. O'Neil entered private practice in 1979 joining a Sacramento based law firm as managing partner of a branch office opening in Newport Beach. Mr. O'Neil's experience as the City Attorney helped with establishing his private practice in the areas of municipal, environmental, and land use law representing real estate developers before governmental and public regulatory agencies. In 1987, he left the Sacramento based law firm to join the firm of Pettis, Tester, Kruse & Krinsky located in the City of Irvine. In 1993, ten of the Pettis Tester attorneys left that firm to form Hewitt & O'Neil LLP to advance

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Internet access from home than any other ethnic group [1]. If Internet voting is practiced, there will be a great impact on voting bias because the government will get more votes from whites, due to the fact that they have Internet access while other minorities do not. Some counties have their voters choose to go to any public library, work, office, and school to vote; however, voters are not guaranteed that they actually vote for their chosen candidates. In other words, a network administrator at those places can easily catch and manipulate votes on its propagation to the database. David Jefferson, a research scientist at Compaq Computer and chairman of the Technology Committee of the California Internet Voting Task Force, describes another way to easily manipulate ballots would be the potential attachment of virus in the email that could automatically and surreptitiously change their votes [1].

Another problem with accessibility is the age and technical experience of the voters. Although the system has to be designed in a user-friendly model that the elderly, disabled, uneducated, and poor people can use, there still is a problem of availability of training. It could be difficult and costly to train people right at the voting booths [2]. It causes pressure to voters that they might get too nervous about the new digital knowledge and forget about who they are voting for.

Electronic voting system, which uses touch-screen, on the other hand, guarantees the security and accessibility concerns. There have also been concerns that touch-screens are susceptible to hacking [4]. This should no longer be a concern because each booth is a 'stand-alone' computer that is not connected to any network or the Internet. Votes are not going to cyberspace. There is absolutely no possibility of viruses getting in there, or a virus erasing vote totals [5].

The concern of inconvenience to voters is also avoided if electronic voting systems are used. Electronic voting systems can be promoted to a number of voters by having them available to any local public library. During the last governor recall election, the Central Library in downtown Los Angeles welcomed everyone from homeless people to office workers to their library to cast their vote using the computers for the first time to quench their curiosity [5].

The *Americans With Disabilities Act*, the 11-year-old law that has improved access to public places for

disabled people, covers all voting places and practices [6]. Electronic voting systems are also available to the disabled. In fact, Harris County, the nation's third largest, spent \$25 million to replace its old punch-card machines with an electronic system with audible features that enable blind voters to cast their ballot unassisted [6].


Due to the challenge of electronic machines, auditing their accuracy is a concern [4]. Voters are guaranteed they vote for the right candidates because they can always make corrections by retouching or going back to the previous screens. The final summary screen gives voters one last chance to reconsider their votes [5]. The bottom line is that about 10% of voters have significant concerns over the electronic systems while the other 90% are satisfied with high technological equipments [2]. Because computers have started being used in most public schools since 1994, most young people are familiar with them. Convincing young people that voting is a right that they should exercise has become an increasing problem. Electronic voting could help send more young voters to the polls.

It is important that security and privacy considerations be taken into account when the government starts designing electronic voting systems and putting them in use. In addition to the usual security concerns that should be considered when designing any secure computer system, voting systems have unique concerns that come about as a result of desire to maintain privacy of voters. Although Internet voting may solve some of these concerns, it causes more severe problems such as lack of both security and privacy of voters.

## NOTES

- [1]. Mohen, J., Glidden, J. *The case for Internet voting*, Communications of the ACM, Volume 44 Issue 1, January 2001 – Available at the Reference Desk
- [2]. Bederson, B., Lee, B., Sherman, R., Herrnson, P., Niemi, R., *Usability of large scale public systems: Electronic voting system usability issues*, Proceedings of the conference on Human factors in computing systems (CHI 2003—Fort Lauderdale, FL), April 2003, pp. 145-152. – Available at the Reference Desk
- [3]. Labaton, S. *U.S. Is Said to Seek New Law to Bolster Privacy on Internet*, New York Times, May 20, 2000 – Available at the Reference Desk
- [4]. Roth, A. *Ballot Bind: Finding the perfect voting machine*, NewsBank InfoWeb, September 21, 2003 – Available at the Reference Desk
- [5]. Marosi, R. *Touch-Screen Voting Popular: Convenience, curiosity prompt many to cast their ballots early on electronic machines*, Los Angeles Times, September 30, 2003 – Available at the Reference Desk
- [6]. New York Times Staff, *Voting with Disabilities*, New York Times, August 18, 2001 – Available at the Reference Desk

measure's stated goals of safety will only come at the cost of liberty. (Hagengruber, J. (Nov. 13, 2003). Effects of Patriot Act debated. <http://www.montanaforum.com>). Anyone can see the immediate effects of the Patriot Act in action: prisoners of war held at Guantanamo Bay without due process, demands that libraries turn over circulation records of their patrons, and any company that has the ability to cash checks of more than \$1,000 now must register with the federal government. (Jordan, M. (Nov. 11, 2002). Banks bracing for effects of USA Patriot Act. <http://atlanta.bizjournals.com/atlanta/stories/2002/11/11/newscolumn2.html>).


In drafting the Declaration of Independence (GEN3 KF 4506 .U56), Thomas Jefferson wrote: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness." However, with decisions like Banks, are we the people still free to pursue our own happiness? Do we the people still value liberty and justice for all? If so, then such decisions should be questioned and/or overruled if it is found to cut too far into our civil liberties. Is it good that another drug dealer is off the streets? Maybe. Is it good that another "criminal" was brought to justice? Maybe. But is it a good thing that Big Brother has been given even broader powers? Maybe not. While the actions of the FBI were not illegal per se, it is only through careful examination of the actions of law enforcement that we the people can ensure our civil liberties are secured and that laws such as the 4<sup>th</sup> amendment do not go the way of the Dodo bird. 

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Trustee Judge Robert J. Moss  
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senada race winner with his brother-in-law where they set a new record for speed. He also likes golf and snow skiing in Montana with his family. He is a Civil War buff who likes to read and visit historical sites with his wife.

Judge Moss has been married to Jill for 23 years. He has 3 daughters: Emily, 27, lives in Charlotte, NC; Megan, 20, attends UCSD; and Kimberly, 16, attends Harbor High School in Newport Beach.

Judge Moss finds being a member of the OCPL Board of Trustees very pleasant. He is working on getting "up to speed" on all the issues facing the Board at this time. 

## LOOKING AT THE WEB

by Mora Prestinary, Reference Librarian



### Black History Month

- Raising the Bar : Pioneers in the Legal Profession  
<http://www.abanet.org/publiced/raisingthebar.html>
- African-American Pioneers  
<http://afgen.com/pioneer.html>
- ABA Commission on Racial and Ethnic Diversity  
<http://www.abanet.org/minorities/>
- ABA Section of Individual Rights & Responsibilities  
<http://www.abanet.org/irr/>
- NAACP  
<http://www.naacp.org/>
- Library of Congress: African-American Odyssey  
<http://lcweb2.loc.gov/ammem/aaohtml/>

### Fourth Amendment

- FindLaw site with Annotations  
<http://caselaw.lp.findlaw.com/data/constitution/amendment04/>
- National Archives Experience : Bill of Rights:  
[http://www.archives.gov/national\\_archives\\_experience/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/national_archives_experience/bill_of_rights_transcript.html)


### Tax Forms

- Federal  
<http://www.irs.gov/formspubs/index.html>  
(from 2000 to current)
- State  
<http://www.taxadmin.org/fta/link/forms.html> (from 1994 to current)
- Tax Court Cases  
<http://www.ustaxcourt.gov/>  
(TC & Memorandum Opinions starting 1/1/99)



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## ON DISPLAY AFRICAN AMERICAN HISTORY MONTH

The Library Book Display for the month of February will highlight National African American History Month by featuring profiles of prominent African American lawyers 

suits, both civil and criminal, but makes more sense than the complicated exclusionary rule.

#### ADDITIONAL MATERIALS

For legislation answering part of the above concerns, see *Handling Federal Tort Claims*, GEN3 KF1325.P3J3 (2003 Rev), *Civil Rights and Civil Liberties Litigation: the Law of Section 1983*, GEN3 KF1325.C58N342 (2003 Rev), and adjacent materials in our stacks.

For recent search and seizure materials, check out *Search and Seizure: A Treatise on the Fourth Amendment*, GEN3 KF9630.L26 1996 (2004 Supp), *Search and Seizure*, KF9630.H34 (2003 Supp), *Search and Seizure Checklists*, GEN3 KF9630.Z9S42 (2003), *California Judges Benchbook – Search and Seizure*, GEN3 KFC1157.C345 2002, *Warrantless Search Law Deskbook*, GEN3 KF9630.J67 2002, and *Officer's Search and Seizure Handbook*, GEN3 KFC1157.O3S7 (2000). Also see *Searches, Seizures & Bugging Compendium* (Bell), REF KF9630.B43 (2004 Rev), *The California Looseleaf Search and Seizure Handbook With Related Matters*, GEN3 KFC1157.A59C3 (2003 Rev), *Search Warrant Law Deskbook*, GEN3 KF9630.B87 (2003 Rev), and *Search Warrants* (for DA's), GEN3 KFC1157.C4 (1999).

Other countries reportedly take a less absolute view in excluding evidence, balancing the gravity of the offense against that of an offending search. See *Admissibility of Illegally Obtained Evidence: A Comparative Analysis of the Laws of England, Scotland, Ireland, Canada, Australia, and New Zealand*, GEN4 & MICRO K222.I4S57 1981. The *Banks* case suggests this may be the trend in our Supreme Court. 📖

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## FAREWELL BRET

This issue's article: "4<sup>th</sup> Amendment takes it on the Chinny-Chin Chin" is a swan song by Bret Christiansen, a frequent contributor to the *Transcript*. In December, he accepted a position as Reference Librarian at the Riverside County Law Library. A graduate of Western State University College of Law, Bret will obtain his Master's Degree in Library and Information Science in May. Knowledgeable in both law and computer use, he also kept the evening staff and patrons entertained with his unique sense of humor and enthusiastic attitude. He will be missed by all of us! 📖

their practices in the area of real estate, corporate-tax, and civil litigation. Hewitt & O'Neil celebrated its 10<sup>th</sup> Anniversary in September, 2003.

Mr. O'Neil was elected to the Newport Beach City Council in 1994 and re-elected in 1998. While on the Newport Beach City Council, he represented the City as a member of the San Joaquin Hills Transportation Corridor Agency Board of Directors. Mr. O'Neil was nominated by his colleagues on the City Council to be Mayor in 1999. Having practiced law in both the private and public sectors, as well as spending eight years on the Newport Beach City Council as an elected official, he brings a unique background of experience to his practice as a municipal and land use lawyer.

Mr. O'Neil is a member of our Lady Queen of Angels Catholic Church in Newport Beach. He heads-up the Committee in charge of building a new Catholic Church and expanding the existing K-8 Catholic School. The new church and school's expansion involves a complicated transaction between St. Mark Presbyterian Church, The Irvine Company, and the City of Newport Beach. The project will result in the relocation of the St. Mark Presbyterian Church to property owned by The Irvine Company and the building of a new Catholic Church on the St. Mark property. Mr. O'Neil's background and legal expertise is well suited as a volunteer for this worthwhile endeavor.

Mr. O'Neil greatly enjoys his legal practice and work on the church project leaving little time for too many other hobbies or interests. When he has time, Mr. O'Neil does like to toil in his garden raising orchids and roses. He and his wife Thais live in Corona del Mar and have raised one daughter who is married to a patent lawyer and they live in San Francisco.


Mr. O'Neil has expressed a great interest in the Orange County Public Law Library and is pleased that the Board of Supervisors has appointed him to his second term on the Board. 📖

Please visit our web site to see  
*What's New from the Depository* at  
<http://www.oc.ca.gov/lawlib/what's%20new.htm>

## Ask a Librarian Question of the Quarter


by Lu Nguyen, Reference Librarian

**Q**. How can I cancel my restraining order?

**A**. You may want to look at the California Judicial Council form AT 145 (Application and Notice of Hearing for Order to Terminate, Modify, or Vacate Temporary Protective Order), and form AT 150 (Order to Terminate, Modify, or Vacate Temporary Protective Order). In addition, you may also want to look at the *California Forms of Pleading and Practice*, Volume 26, Chapter 303 (Injunctions) section 303.138 (Proceedings to Dissolve or Modify Temporary Restraining Order or Injunction [Civil code section 3424; Code of Civil Procedure section 532(a), 533]- Notice of motion and Supporting Declaration), and section 303.139 (Proceeding to Dissolve or Modify Temporary Restraining Order or Injunction [Civil code section 3424; Code of Civil Procedure section 532(a), 533])- Order. 

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## NEW DATABASES AT THE LIBRARY

- **FastCase:** Includes case law libraries for Federal and State. Most Collections date back to 1950 and are updated regularly. Also links to Federal and State Statutes, Regulations and Administrative Rules.
- **LLMC Digital** (Law Libraries Microforms Consortium): Includes all titles generated by any U.S. federal department, agency, commission. Contains all titles created by any of the U.S. Federal Courts, U.S. Congress, its committees, and such agencies as the GAO, Library of Congress, and the Copyright Office.
- **WestLaw:** Includes USCA Historical Databases, all State Statutes, all State case law, all Federal case law and judicial materials, all Federal and State cases combined. Access to KeyCite citation service. 

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### OCPLL will be closed for the following Court Holidays

**February 12, 2004, Abraham Lincoln's Birthday**

**February 16, 2004, Presidents' Day**

**March 31, 2004, Cesar Chavez Day**

**May 31, 2004, Memorial Day**

#### Regular Library Hours

**Monday-Thursday** 8 am-8 pm

**Friday** 8 am-6 pm

**Saturday** 9 am-6 pm

*Closed Sundays and Court Holidays*

**The Orange County Public Law Library**  
derives its income  
from a portion of the filing fees in civil cases  
heard in the Superior Courts of Orange County, rather  
than from general tax funds.

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